

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 10
(MC2018-207/CP2018-289)
Negotiated Service Agreement

Docket No.CP2020-150

PUBLIC REPRESENTATIVE COMMENTS ON
NOTICE OF UNITED STATES POSTAL SERVICE OF FILING
A FUNCTIONALLY EQUIVALENT GLOBAL EXPEDITED PACKAGE SERVICES 10
NEGOTIATED SERVICE AGREEMENT

(June 2, 2020)

The Public Representative hereby provides comments pursuant to the Commission's notice initiating this docket.¹ In that notice, the Commission established the above-referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of Filing a Functionally Equivalent Global Expedited Package Services 10 (GEPS 10) Negotiated Service Agreement.² The Notice includes a public (redacted) version of the GEPS 10 contract (Contract), a Certification of Compliance with 39 U.S.C. § 3633(a) as required by 39 C.F.R. § 3015.5(c)(2), and a redacted copy of Governors' Decision No. 19-1³ as attachments along with redacted supporting financial models filed separately as Excel files. Unredacted versions of these documents were filed separately under seal.

¹ PRC Notice Initiating Docket No. CP2020-150, May 28, 2020.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 10 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 27, 2020 (Notice).

³ Decision of the Governors of the United States Postal Service on Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, February 7, 2019 (Governors' Decision No. 19-1).

In Order No. 4800, the Commission approved the Postal Service's request to add the GEPS 10 product to the competitive product list and designated a baseline agreement to be used to determine the functional equivalence of subsequent agreements that the Postal Service requests to add to the GEPS 10 product.⁴ GEPS 10 contracts are agreements negotiated with small- or medium-sized businesses that mail products directly to foreign destinations using Priority Mail Express International, Priority Mail International, First-Class Package International Service, or Commercial ePacket. Notice at 4.

The Postal Service will establish the effective date of the contract that is the subject of this filing once the Commission completes its review. *Id* at 3. The Contract is expected to remain in effect until June 30, 2020, unless terminated sooner. *Id*. However, at the discretion of the Postal Service, at least (7) days prior to the expiration date of this agreement, the Postal Service may provide notice to the mailer that this agreement has been extended up to an additional three months, with the option for the Postal Service to extend the agreement for a second additional three (3) months, and the Postal Service reserves the right to adjust the duration of such extension , depending on the effective date, if any, of a successor agreement with the mailer. *Id*.

The Postal Service states that the Contract is functionally equivalent in all pertinent respects to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Id*. at 4. The Postal Service therefore requests that the Contract be added to the GEPS 10 product grouping. *Id*. at 6.

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the Contract, and the supporting financial models that were filed under seal. Based upon that review, the Public Representative concludes that the Contract is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices offered in the Contract should generate sufficient revenues to cover costs.

⁴ See Docket Nos. MC2018-207 and CP2018-289. Order Adding GEPS 10 to the Competitive Product List and Designating Baseline Agreement, August 29, 2018 (Order No. 4800).

Functional Equivalence. The Postal Service asserts that the Contract shares similar cost and market characteristics as those of the contract that is the subject of Docket No. CP2018-11, which serves as the baseline agreement for the GEPS 10 product grouping. *Id.* at 3-4. However, the Postal Service identifies differences between the Contract and the GEPS 10 baseline agreement. *Id.* at 5. Most of these differences are specific to the customer (e.g., the customer's name and address). Other differences between the Contract and the GEPS 10 baseline agreement include revisions to paragraphs; revisions to numerous existing articles, as well as deletion, addition and renumbering of some articles; and revisions to Annexes 1, 2, and 3. *Id.* The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.*

The Public Representative agrees that the differences between this Contract and the baseline agreement do not fundamentally alter the services provided by the Postal Service under the Contract. Therefore, the Contract is functionally equivalent to the baseline agreement and qualifies for inclusion within the GEPS 10 product.

Pricing Considerations. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices (1) must not result in the subsidization of competitive products by market dominant products; (2) must ensure that each competitive product will cover its attributable costs; and (3) must ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial models do not directly address whether the addition of the Contract to the GEPS 10 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial models indicate that the negotiated rates in the Contract will generate sufficient revenue to cover its attributable costs. Therefore, the addition of the Contract to the GEPS 10 product will not cause the product's cost coverage to fall below 100 percent, assuming the product currently covers its attributable costs. Under this assumption, the addition of the Contract should allow the GEPS 10 product to continue to comply with 39 U.S.C. § 3633(a)(2) and should not result in competitive products as a

whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the addition of the Contract to the GEPS 10 product should improve the likelihood that complete products as a whole contribute an appropriate share to the Postal Service's institutional costs as required by 39 U.S.C. § 3633(a)(3).

The Commission will have an opportunity to review the financial results for the Contract in a future ACD Report for compliance with 39 U.S.C. 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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